

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**STATE OF MISSOURI, EX REL., CASS COUNTY, MISSOURI,
RESPONDENT**

vs.

**JOHN R. MOLLENKAMP, ACTING DIRECTOR OF THE MISSOURI DEPARTMENT
OF REVENUE,
APPELLANT**

DOCKET NUMBER WD78350

DATE: OCTOBER 6, 2015

Appeal from:

The Circuit Court of Cole County, Missouri
The Honorable Jon E. Beetem, Judge

Appellate Judges:

Division Two: Thomas H. Newton, Presiding Judge, Victor C. Howard, Judge and Mark D. Pfeiffer, Judge

Attorneys:

Michael G. Berry, for Respondent

Robert L. Presson, for Appellant

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

STATE OF MISSOURI, EX REL. CASS COUNTY, MISSOURI, RESPONDENT

v.

**JOHN R. MOLLENKAMP, ACTING DIRECTOR OF THE MISSOURI DEPARTMENT
OF REVENUE, APPELLANT**

WD78350

Cole County, Missouri

Before Division Two: Thomas H. Newton, Presiding Judge, Victor C. Howard, Judge and Mark D. Pfeiffer, Judge

The Director of the Missouri Department of Revenue appeals the judgment of the trial court granting a permanent writ prohibiting him from recovering from Cass County local sales tax funds found to have been erroneously paid to it. Director contends that the trial court erred in issuing the permanent writ of prohibition because the judgment was barred under the doctrine of res judicata and prohibition was not appropriate in this case. The judgment of the trial court is reversed, and the case is remanded with direction to quash the writ of prohibition.

REVERSED AND REMANDED.

Division Two holds:

Where Cass County had an adequate remedy of appeal from Director's decision to withhold local sales tax revenue from it to correct past erroneous distributions through Chapters 32 and 144 and section 621.050.1, the trial court abused its discretion in issuing the permanent writ of prohibition.

Opinion by: Victor C. Howard, Judge

Date: October 6, 2015

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